



JONATHAN E. FIELDING, M.D., M.P.H.
Director and Health Officer

CYNTHIA A. HARDING, M.P.H.
Chief Deputy Director

313 North Figueroa Street, Room 806
Los Angeles, California 90012
TEL (213) 240-8117 • FAX (213) 975-1273

www.publichealth.lacounty.gov



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May 28, 2014

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H.
Director and Health Officer

Cynthia Harding, M.P.H.
Chief Deputy Director

SUBJECT: **HEALTH FACILITIES INSPECTION DIVISION NURSING HOME
INVESTIGATIONS UPDATE**

This is to provide an update on actions the Department of Public Health (DPH) has taken to strengthen the administration and oversight of the Health Facilities Inspection Division (HFID).

On March 5, 2014 we provided to your Board a report on the concerns about nursing home complaint investigations described in the March 3, 2014 *Daily News* article. At your instruction, the Auditor-Controller conducted an audit of the quality and integrity of HFID nursing home investigations and provided their recommendations to your Board on April 4, 2014, to which DPH's response was attached.

The Department has taken a number of immediate actions including:

- Implementation of an improved review process for all inspection reports;
- Establishment of a protocol that requires senior management approval of changes to complaint findings;
- Authorization of additional overtime for staff to address priority workload;
- Facilitation and expedited rehiring of HFID retirees to specifically address the current backlog;
- Temporary reassignment of departmental staff to HFID to assist with program analysis, prioritization, and tracking of all immediate jeopardy cases; and
- Utilization of State staff to temporarily assist with priority Los Angeles County (LAC) workload.

This memo provides additional information on our ongoing actions to uncover problems, and improve operations and oversight of HFID.

Reassignment of Health Facilities

On April 1, 2014, HFID was reassigned under the direction of Terri Williams, Assistant Director of the Division of Environmental Health. Ms. Williams has extensive knowledge and experience in assessment, operations and structuring effective oversight of inspection programs. She has assembled a team of DPH staff to investigate and begin to implement new systems and procedures to improve the functioning of HFID. A number of issues have been highlighted through these investigations including ineffective management practices, lack of uniform policies and procedures, operational confusion for line staff, ineffective record keeping systems, and additional backlog of cases in other areas of the program. The need for substantial additional State resources was confirmed and better quantified. Ms. Williams has taken quick action to develop solutions for these identified problems as outlined below.

Improving Management Practices and Systems

Organizational Structure

DPH is evaluating the current organizational structure of HFID for strategies to improve oversight and communication between managers and staff. Currently, managers are centrally located which inhibits regular communication with line inspection staff, who predominantly work in outlying offices. We are considering relocating managers to these outlying offices.

DPH is also reviewing responsibilities of the different job classifications within HFID. A lack of clarity around roles and responsibilities has caused, on occasion, tension among staff resulting in workplace inefficiencies and difficulties in supervision.

Effective Use of Data

The Auditor-Controller's April 4, 2014 report outlined a number of recommendations involving the use of data and generation of reports to better manage open investigations. Since the Auditor-Controller's report, HFID has gained a better understanding of the State and federal data systems that we are required to utilize. HFID staff is working with State staff to deepen our understanding of the system and develop improved management reports.

Strengthening Policies and Procedures

In our review, we learned that in some cases managers changed decisions on the results of complaint investigations without notifying the surveyor and supervisor of the change. HFID is in the process of determining the reasons for the changes in these specific instances and the reasons the surveyors were not consulted. A manager may downgrade a citation or a deficiency based on the manager's judgment that the investigation results are not sufficient to justify the given class categorization of the violation, or due to incomplete investigation work by the surveyor. While the State policy guidelines indicate that all changes to an investigative report must first be discussed with the surveyor, the State data system allows managers to override the work of line staff. Due to the high volume of work, much of it in the field, surveyors are often not available to discuss the results with managers which may have contributed to inconsistent adherence to the policy. To eliminate this problem, all HFID employees have been instructed that supervisors and managers can only change the decisions on complaints after first discussing the change with the surveyor, and obtaining approval of the Assistant Director of the HFID program.

Record keeping for this statewide program is entirely manual with hardcopy records. At times it is challenging for our staff to find files for review. HFID needs an automated system for electronic document retrieval and development of more effective systems for record location and filing. A workgroup has been formed to develop improvements to the current manual system while considering alternatives for electronic storage and retrieval. In addition, there is lack of clarity on state requirements for record retention policies and procedures which has resulted in some files being purged prematurely. HFID staff is working with the State to get clarity on state requirements and will implement policies and procedures to assure appropriate record retention.

Review of Best Practices

Through increased communication with the State and by observing how the program operates in other parts of the state, HFID has been identifying best practices that can be implemented in Los Angeles County. These include establishing well defined workflows for conducting surveys and the investigation of complaints, creating a dedicated complaint response team, assigning staff responsible for tracking work and the analysis of data, and developing a quality assurance program to ensure ongoing compliance with federal and state laws and to continually make program improvements.

Training for Managers and Line Staff

HFID management will be included in ongoing leadership training within Environmental Health. Immediate need for additional training has been identified in four areas: adhering to policy and procedures, general supervisory and management skills, triaging complaints and entity reported incidents (ERIs), and prioritization of cases and complaint response.

It currently takes 12 months for a new employee to be capable of independent field work due to the barriers in getting Los Angeles County staff in the State training programs. Considerable training is required; however, there are a limited number of slots in the State training programs. HFID is working with the State to ensure timely entry into State training programs for newly hired surveyors to reduce the elapsed time until they can work independently. If HFID is able to secure priority training slots with the State, the total time required for training could be reduced to six months.

Addressing Backlog of Complaints and ERIs

The HFID staff estimates that as of March 6, 2014 there are over 3,000 complaints and ERIs of nursing homes awaiting completion. In addition, there are backlogs in other areas of HFID, including complaints regarding acute care facilities. The backlog is due to a lack of sufficient resources to both address complaints and handle the ongoing workload of regular inspections and surveys. HFID has developed three strategies to address the backlog: 1) hire retirees; 2) approve overtime for existing staff; and 3) request additional resources from the State.

Retirees

DPH contacted 26 HFID retirees. Of the 26 retirees, 5 have agreed to return to service and will begin on June 2, 2014. Retirees require only a brief refresher course, making them eligible to begin the work almost immediately.

Additional Funding

DPH has performed extensive workload and staffing analyses of the backlog of complaints and ERIs and has refined the estimate of the shortfall in current staffing levels compared to what is required to perform the annual workload of certifications, licensing and investigations and address complaints and ERIs on a timely basis. As previously reported, this staffing shortfall has resulted in overburdened staff and the inherent operational inefficiencies. Conducting the workload analyses has been a lengthy and laborious process as it has been extremely difficult to get accurate workload data from the State.

There are currently 178 budgeted positions, but at current contract funding levels we are able to fill only 151 of these positions. On April 4, 2014, we provided a letter to the State that outlined the additional costs and resources necessary for fiscal year (FY) 2014-15 to begin to eliminate the current skilled nursing facility complaint and ERI backlog only. We requested \$4.5 million in additional funding for 2014-15. Since that letter, we have identified other program area backlogs. We have also received additional data from the State to refine our funding needs and have compared the staffing to facility ratios for Los Angeles County to other areas, all of which are operated directly by the State. We used this data to develop revised financial projections and an amended request for FY 2014-15 for \$6.5 million to fund 75 positions, 27 of which are authorized but unfunded. We will also be requesting approximately \$23.8 million in additional funding for FY 2015-16 to fund 80 new positions to meet anticipated ongoing workload demands. The total increase in staff will be 155 positions which will be phased in over the 2014-15 and 2015-16 fiscal years due to the limitations on the number of staff we can reasonably expect to train. This request will be submitted to the State at the end of this month.

The additional funding request is derived from a State staffing model that mirrors how other State health facility inspection offices are staffed and uses Los Angeles County anticipated salary and operating cost increases for FYs 2014-15 and 2015-16. It reflects a fully staffed program of 306 HFID positions to adequately address the workload, which is more than double the current HFID staffing level in Los Angeles County. If we are unable to secure additional funding, we will request that your Board allow us to terminate the contract with the State.

The Auditor-Controller is in the final stages of a second phase of the audit and we have been working closely with them to ensure full access to all requested information. As we continue our review and take additional actions to improve HFID, we will provide updates to your Board.

If you have any questions or need additional information regarding the issues and actions taken or projected, please let either of us know.

JEF:cb

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors